

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMAL AUSTIN,
Plaintiff,

v.

COUNTY OF ALAMEDA, et al.,
Defendants.

Case No. 15-cv-00763-HSG

**ORDER REVOKING IN FORMA
PAUPERIS STATUS FOR PURPOSES
OF APPEAL**

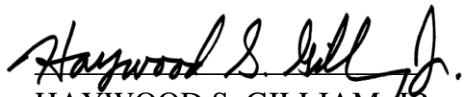
Plaintiff Jamal Austin filed this action on February 19, 2015. Dkt. No. 1. The Court granted Plaintiff's request to proceed in forma pauperis on February 25, 2015. Dkt. No. 5. On November 13, 2015, the Court dismissed the action without prejudice due to Plaintiff's failure to prosecute the case. Dkt. No. 41. On November 23, 2015, Plaintiff filed a notice of appeal to the Ninth Circuit Court of Appeals. Dkt. No. 42. On November 30, 2015, the Ninth Circuit issued a notice of referral to this Court for the limited purpose of determining whether Plaintiff's in forma pauperis status should continue for his appeal. Dkt. No. 44.

The Court finds that Plaintiff's appeal is frivolous. This action was dismissed without prejudice due to Plaintiff's *failure to prosecute*. The Court did not render any final judgment on the merits of Plaintiff's claims, and Plaintiff is free to refile those claims if he is able to adequately pursue them. However, it is undisputed that Plaintiff failed to appear at three consecutive court hearings, even though the Court made a number of special accommodations. These accommodations included sending Plaintiff two letters authorizing court security officers to allow him into the courthouse without an identification card (in response to a letter in which Plaintiff said he did not have such identification), and prearranging to call Plaintiff at his home at the designated time of the last hearing so that he could appear by telephone. The Court also

1 repeatedly suggested that Plaintiff consult the Court's *pro se* Legal Help Center for assistance, but
2 Plaintiff does not appear to have done so. Moreover, per defense counsel's sworn declaration,
3 Plaintiff failed to respond to counsel's communications regarding the case on multiple occasions.
4 Accordingly, the Court concludes that this appeal is frivolous and revokes Plaintiff's in forma
5 pauperis status for the purposes of his appeal. *See Hooker v. Am. Airlines*, 302 F.3d 1091, 1092
6 (9th Cir. 2002) (noting that revocation of in forma pauperis status is appropriate where district
7 court finds the appeal to be frivolous).

8 **IT IS SO ORDERED.**

9 Dated: December 7, 2015

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12 HAYWOOD S. GILLIAM, JR.
13 United States District Judge
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